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FISCAL IMPACT STATEMENT

LS 7669
BILL NUMBER: HB 1570

NOTE PREPARED: Jan 9, 2003
BILL AMENDED:

SUBJECT: Technology Commercialization Credit.

FIRST AUTHOR: Rep. Murphy
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill establishes a 15% Technology Commercialization Tax Credit against state tax liability for expenses incurred to commercialize technology developed in Indiana.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Indiana Department of Commerce (IDOC)*: The Technology Commercialization Cost Tax Credit established by the bill would create additional administrative demands for the IDOC. The IDOC is responsible for determining eligibility of taxpayers for the Commercialization Cost Tax Credit. IDOC must make determinations relating to (1) the type of investment in commercialization costs and (2) that commercialization costs equal at least $250,000 in the first year and $2 M over the four years of the tax credit. The additional administrative responsibilities given the IDOC under the bill presumably could be absorbed given their existing budgets and resources. The December 7, 2002, state staffing table indicates that the IDOC has 52 vacant full-time positions, including regional office positions.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the tax credits established under this bill. Under claw back provisions of the bill, the DOR also would have to oversee both disallowing credit claims and seeking repayment of credit amounts by taxpayers who fail to remain eligible for the Commercialization Cost Tax Credit. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: The bill establishes a credit against the Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for qualified technology commercialization costs incurred on or after January 1, 2004. The amount of credits that could potentially be claimed by taxpayers is indeterminable. The net revenue impact depends on the extent that collections from employment or other investment attributable to creditable commercialization activities is less than or exceeds the amount of credits claimed by taxpayers. However, if the commercialization activities would have occurred in the absence of the tax credit, the net impact would be the total credits claimed by taxpayers.

The bill provides for a nonrefundable tax credit for costs relating to investment in machinery and equipment and obtaining rights to use or the use of technology, including fees related to patents, copyrights, and licenses. A taxpayer may receive credits for commercialization costs incurred in four taxable years at one business location. (Taxpayers may qualify for an additional four years of tax credits for costs at the same business location.) The credit amount in any taxable year is equal to 15% of money invested in commercialization costs for one business location. However, the credit amount may not exceed 50% of the taxpayer's tax liability in a taxable year after application of all other tax credits.

The tax credit may be applied to the taxpayer's tax liability or distributed to shareholders, partners, or members if the taxpayer is a pass through entity, over five taxable years beginning in the taxable year after the year in which IDOC certification was obtained. (A pass through entity is an S-Corporation, partnership, trust, limited liability company, or limited liability partnership.) The taxpayer may carry forward any unused credit amount from a taxable year for a maximum of 21 subsequent taxable years. The amount the taxpayer may apply in a taxable year excludes any part of the credit carried forward from a prior taxable year. The taxpayer is not eligible to carry back any unused credit. For pass through entities, the credit may be claimed by shareholders, partners, or members in proportion to their distributive income from the pass through entity. The tax credit is not available in a taxable year in which machinery and equipment is not in regular service in Indiana or for an investment for which another research and development tax credit is applied.

Revenue from the AGI Tax on corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund. Since the credit is effective beginning in tax year 2004, the fiscal impact would begin in FY 2005.

Eligible Taxpayer: Taxpayer eligibility is determined by the Indiana Department of Commerce. Eligible taxpayers must incur commercialization costs for a trade or business the taxpayer conducts. The costs must include the purchase or lease of machinery and equipment placed in and maintained in service in Indiana. The machinery and equipment must be used in relation to technology production or to produce resources essential to technology production. The commercialization costs must be equal to at least $250,000 in the first year of the credit, and $2 M for the four-year duration of the credit. The bill contains claw back provisions for taxpayers that do not meet these monetary investment requirements. The bill also permits a taxpayer certified for credits to sell the credits to another taxpayer for use in that taxable year or future taxable years. The credits must be sold for at least 75% of their value, and the purchaser must apply them in the same manner and against the same taxes as the taxpayer certified for the credits.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue. Indiana Department of Commerce.

Local Agencies Affected:

Information Sources:

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